

MTSA Regulations found at 33 CFR Parts 3, 156.215, & ISPS Part B 4.20

#31-04 MAY 13, 2004---POLICY ADVISORY COUNCIL FAQ

Q. What is the CG policy on vessels lightering in the Exclusive Economic Zone (EEZ) with regards to MTSA Regulations and the ISPS Code?

Ans. Vessels engaged in lightering operations in the marine environment, which includes the EEZ, are subject to Coast Guard regulation, when the oil or hazardous material lightered is destined for a port or place subject to the jurisdiction of the United States. Any vessel that is involved in lightering operations within the EEZ must comply with MTSA and/or the ISPS Code as applicable. (An ISPS to non-ISPS vessel interface is allowed if the non-ISPS vessel complies with MTSA in accordance with ISPS B 4.20.)

The Coast Guard has historically exercised authority over vessels conducting lightering operations in the EEZ for the enforcement of pollution laws and regulations. These vessels are boarded to conduct cargo transfer monitoring when it is deemed necessary by the Coast Guard to verify compliance with 33 CFR 156. Compliance with §156 includes maintenance of a valid Certificate of Inspection or Certificate of Compliance. In either case, compliance with the MTSA regulations and/or the ISPS Code is a required element.

The exercise of this authority is similar to the Coast Guard's policy with regard to enforcement of pollution laws and regulations. The COTP may exercise broad discretion when targeting vessels conducting lightering operations for ISPS / MTSA compliance verification and boardings will not be done routinely. However, the Coast Guard retains the authority to board any vessel lightering within the EEZ at any time to conduct a verification that all required security measures are in place, including monitoring, access control and proper Declaration of Security (DoS).

Vessels using designated lightering areas must provide 24 hours notice prior to transfer operations in accordance with 33 CFR 156.215. The COTP should screen each vessel for MTSA/ISPS compliance when the notice is received. Vessels that are not compliant with MTSA or the ISPS Code should be denied permission to use the designated lightering area.

Specific enforcement and control action for non-complaint vessels, beyond denying permission to use the designated lightering zone, are at the discretion of the COTP. If, upon reviewing the facts of a particular lightering operation, the COTP determines that it was not conducted in accordance with ISPS Code and the MTSA, the COTP may refuse entry of the servicing vessel into a port or place subject to the jurisdiction of the United States and/or deny approval to for the servicing vessel to lighter its cargo in a port or place subject to the jurisdiction of the United States.

Designated lightering areas are not affected by MARSEC level changes, however the COTP may raise the MARSEC level of any U.S. vessel that is operating in a designated lightering area if warranted.

Presently, designated lightering areas are not considered as a last port of call for Advanced Notice of Arrival purposes. However, it is anticipated that future regulation changes will require ships to report such vessel to vessel activities as a last port of call.